

## REMARKS

Claims 1 – 19 and 27 are pending in the application. Claim 10 has been amended herein. No new matter has been added by this amendment. This response is accompanied by the Declaration of Scott Huffer under 37 C.F.R. § 1.132 (“the Huffer Declaration”), which constitutes objective evidence of non-obviousness of the claims. This response is also accompanied by a copy of the express abandonment (as filed) for commonly assigned patent application 10/794,100.

## ARGUMENTS

### *Obviousness rejection under Section 103(a)*

Claims 1 – 19 and 27 stand rejected as being obvious in view of US 5,792,549 to Wilkie, US 5,888,649 to Curatolo et al., and US 4,810,745 to Pike et al. It is asserted in the office action that Wilkie teaches a packaging film comprising a polypropylene substrate coated with a cold seal release layer that includes a non-migrating slip agent and coated with a cold seal receptive layer. It is further asserted that the non-migrating slip agent is deemed to be a reacted-in slip agent and that the cold seal receptive layer is deemed to be a cold seal layer. It is acknowledged in the office action that Wilkie fails to teach an energy-cured release layer or a rubber in the cold seal layer. However, it is asserted that Curatolo teaches an energy-cured release layer and that Pike teaches a cold seal coating including a rubber.

It is respectfully submitted that the combination of Wilkie, Curatolo and Pike does not teach or disclose the present invention.

The cold seal receptive layer disclosed in Wilkie is *not* a cold seal layer. Rather, the cold seal receptive layer is a layer applied to the substrate that is “subjected to a physical surface-modifying treatment to improve the bond between [the] surface [of the cold seal receptive layer] and the subsequently applied cold seal composition.” As presently claimed, the cold seal cohesive of the present invention is applied directly onto the substrate and not onto an additional layer such as a cold seal receptive layer.

Moreover, as detailed in the Huffer Declaration, the non-migrating slip agents disclosed in Wilkie are *not* “reacted-in” slip agents as presently claimed. The non-migratory slip agents

disclosed in Wilkie are particles that are merely suspended in the coating. The particles are not reacted-in to the coating, and would not become reacted-in if energy were to be applied to the coating. The particles create a rough surface on the coating that provides improved release properties by way of mechanical slip. In other words, the non-migratory slip agents improve release properties by limiting the surface area of the coating onto which another surface can contact. Less surface to surface contact between the coating and the other surface means less friction between the two surfaces, which, in turn, results in improved release properties. However, this rough surface (created to improve release properties) reduces the gloss of the coating.

Also, because the coatings in Wilkie rely merely on mechanical slip to achieve the desired release properties, the portion of the coating that does come into contact with a cold seal cohesive (e.g., when in a roll) may still deaden the cold seal cohesive by offsetting onto the cold seal cohesive or by having the cold seal cohesive offset onto it. To limit these problems, migratory slip agents may be added to the coating of Wilkie, further reducing the gloss of the coating and deadening the cold seal cohesive.

In contrast, reacted-in slip agents as claimed in the present application become cross-linked and polymerized with the energy cured coating when energy is applied to the coating. The inclusion of a reacted-in slip agent in the energy cured coating allows the coating to have a high gloss and other aesthetically pleasing qualities while also serving as a release layer for the cold-seal cohesive. The cold seal cohesive (i) remains attached to the inner side of the substrate, (ii) does not offset onto the energy-cured coating, (iii) does not remove a portion of the energy-cured coating when the material is unrolled after being stored in a roll. Thus, the cohesive is not deadened as a result of contact with the energy-cured coating.

Consequently, Wilkie simply does not disclose all of the elements of the present invention except for an energy cured layer. With regard to the energy cured layer, there is no teaching or disclosure in Wilkie to include an energy-cured coating of Curatolo onto the package of Wilkie as asserted in the office action.

There is no teaching or disclosure in Curatolo of applying a energy-cured coating in combination with a cold seal cohesive. Curatolo discloses adhesives including hot melt, pressure-sensitive adhesives, and any adhesive “which forms an aggressive adhesive bond to the substrate and to *any other surface* to which the substrate is adhered.” (emphasis added). A cold seal cohesive only bonds to another cold seal cohesive made up of the same material. In other words, a cold seal cohesive will not bond to *any other surface*. Thus, Curatolo does not teach or disclose whether the energy-cured coating could be used with a cold seal cohesive so that the cold seal cohesive (i) remains attached to the inner side of the substrate, (ii) does not offset onto the energy-cured coating, and (iii) does not remove a portion of the energy-cured coating when the material is unrolled after being stored in a roll.

Consequently, the combination of Wilkie and Curatolo does not teach or disclose a packaging material comprising a substrate with a cold-seal cohesive coating on at least a portion of one side and an energy-cured release layer with a reacted-in slip agent on the other side. Further, Pike, which the office action asserts adds elements not present in the independent claims, cannot be combined with Wilkie and/or Curatolo to teach or disclose a packaging material comprising a substrate with a cold-seal cohesive coating on at least a portion of one side and an energy-cured release layer with a reacted-in slip agent on the other side. Because these references do not teach or suggest the presently claimed invention, it is respectfully submitted that the obviousness rejection should be withdrawn.

#### *Double Patenting*

Claims 1 – 19 and 27 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 24 of copending Application No. 10/794,100 in view of Wilkie. Application No. 10/794,100 has been expressly abandoned (a copy of the express abandonment form is attached). It is respectfully submitted that because Application No. 10/794,100 has been abandoned, the double patenting rejection should be withdrawn.

Claims 1 – 19 and 27 also stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of

copending Application No. 10/702,980. Application No. 10/702,980 is a divisional of the present application filed after a restriction requirement in the present application (see office action of July 16, 2002). It is respectfully submitted that because Application No. 10/702,980 is an involuntary divisional case, the double patenting rejection should be withdrawn. *See* MPEP 804.

In view of the foregoing, an early Notice of Allowance of all claims is earnestly solicited.

Respectfully submitted,

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